THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 25594 of 2006

Date: 11.12.2006

Between:

D. Upender Rao.

.... PETITIONER

AND

The A.P. Northern Power Distribution Company Limited, rep. by its Chairman and Managing Director, Warangal and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 25594 of 2006

Order:

The petitioner, who is working as contract labour in the respondents-APNPDCL, applied to the post of Contract Junior Linemen in response to the notification dated 06.06.2006 issued by the respondents-APNPDCL. The case of the petitioner is that he is over-aged and not eligible to apply the said post in terms of the present notification. However, it is his case that since he is working as contract labour in the respondents-APNPDCL for more than 10 years and discharging his duties as that of the work charged establishment on daily wages, the respondents have the power to relax the condition of age limit as per the note appended to Rule 5 of the Andhra Pradesh Electricity Department Operation and Subordinate Service Rules (for short "the Rules"). He further states that the respondents have relaxed the said condition in the case of similarly placed persons, and not extending the same to the petitioner is illegal and arbitrary. Hence, he filed the present writ petition.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APNPDCL.

3. Learned counsel for the petitioner submits that the age limit prescribed in the notification for applying to the post of contract Junior Linemen is not below 18 years and not above 35 years as on the date of notification i.e., dated 06.06.2006, and since the petitioner is aged about more than 35 years, if the said outer limit of 35 years of age is taken into consideration, he is not eligible for consideration. He further submits

that as per the note appended to Rule 5 of the Rules, the age limit referred to in Rule 5 shall be relaxed to the extent of the period served, if any, in work charged establishment on daily wages as the case may be, and that Condition 6(b) of the revised notification states that if contract labour and fresh candidates apply for the post, the contract labour will be given preference for selection. Relying on the said conditions, learned counsel for the petitioner submits that since the petitioner has been working as contract labour in the respondents-APNPDCL for more than 10 years and discharging his duties as that of work charged establishment on daily wages, he is entitled for relaxation of age to the extent of the period he served in the capacity of contract labour. He further submits that the respondents extended the said benefit to similarly situated persons and not extending the same to the petitioner, in spite of his submitting application, is discriminatory, illegal and arbitrary. In support of his contentions, he also relied on a decision of the apex Court in ***Steel Authority of India v. National Union Water Front Workers***[1].

4. In view of the said contentions, it is pertinent to extract the Note appended to Rule 5 of the Rules, which reads thus.

> "Rule 5: "Rule 5 Qualification: (1) No person shall be eligible for appointment to any category or grade, if he has completed 25 years of age as on the date of appointment.
>
> **Note**: 1) This age limit referred to in this Rule shall be relaxed to the extent of the period served, if any in work charged establishment on daily wages as the case may be."

5. A reading of the note appended to Rule 5 of the Rules shows that the age limit referred to in Rule 5 should be relaxed to the extent of the period served, if any, in work charged establishment on daily wages.

The petitioner contends that he is discharging the duties as that of work charged establishment on daily wages, and therefore, he is entitled to relaxation of age to the extent of the period he served in the capacity of contract labour. This Court has no expertise or knowledge to decide what are the nature of works the petitioner is doing. The issue as to whether or not the petitioner is entitled to be given the benefit of relaxation of age, is a policy matter of the respondents-APNPDCL.

6. Having regard to the facts and circumstances of the case, and in view of the fact that the petitioner has already submitted his application for the post of contract Junior Linemen, I deem it appropriate to dispose of the writ petition with the following direction.

The respondents-APSPDCL are directed to consider the issue of extending the benefit of age relaxation as pleaded by the petitioner at the time of selection of the posts, which they have notified, in terms of the note appended to Rule 5 of the Rules,.

7. Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 11.12.2006

sj/nsr

[1] AIR 2001 SCW 3574